

## **KENTUCKY DEPARTMENT OF EDUCATION**

### **STAFF NOTE**

#### **Review Item:**

Overview of Kentucky's ESEA Flexibility Request

#### **Applicable Statute or Regulation:**

Elementary and Secondary Education Act, Section 9401

#### **History/Background:**

***Existing Policy.*** Under the authority of the Elementary and Secondary Education Act (ESEA), Section 9401, the U.S. Secretary of Education is allowed “. . . to waive, with certain exceptions, any statutory or regulatory requirement of ESEA for a state education agency that receives funds under a program authorized by the ESEA and requests a waiver.” Thus, in late September, the U.S. Department of Education (USDOE) offered each state education agency an opportunity to request flexibility for the state agency and its districts/schools from certain requirements of the No Child Left Behind Act of 2011. In the guidance for the waiver request from USDOE, it stated that: “This flexibility is intended to build on and support the significant State and local reform efforts already underway in critical areas such as transitioning to college- and career-ready standards and assessments; developing systems of differentiated recognition, accountability, and support; and evaluating and supporting teacher and principal effectiveness.” The deadline set for receipt of waiver requests was November 14, 2011.

The Kentucky Department of Education (KDE) developed, with broad constituency review, an ESEA Flexibility Request that was electronically submitted to USDOE on November 12, 2011 and received confirmation from them that the agency met the deadline for submission. The full waiver request and its appendix were already sent to the Kentucky Board of Education via e-mail; however, it can be accessed on the KDE website on the Unbridled Learning page at:  
<http://www.education.ky.gov/KDE/Administrative+Resources/Commissioner+of+Education/Unbridled+Learning/>.

To assist in ensuring the comprehensiveness of the state's proposal and that USDOE's requirements for the waiver were met, feedback on the draft waiver request was also received by a KDE team consisting of Associate Commissioners Ken Draut and Felicia Smith and Policy Advisor Mary Ann Miller at a pre-peer review session conducted by the Council of Chief State School Officers in Chicago. From the comments received at this session, the request was revised and strengthened to provide greater clarity on Kentucky's innovative system.

The waiver request will undergo peer review by a team of reviewers selected by USDOE in early December. KDE has been told that we will have an opportunity to respond to questions from the peer reviewers through USDOE staff. USDOE has indicated that we will know sometime in January if the waiver request is approved.

Associate Commissioners Ken Draut, Felicia Smith and Dewey Hensley will present an overview of the waiver request at the December 6 study session. They will highlight areas where proposed revisions will need to be considered to 703 KAR 5:220, Categories for Recognition, Support and Consequences, if the waiver request is approved. Those changes are necessary to meet the provisions of the waiver request and the regulation would come back to the board at its February 2012 meeting. This would also allow for further constituent review of the changes to regulation prior to the board's approval.

**Impact on Getting to Proficiency:**

Approval of Kentucky's ESEA Flexibility Request will allow implementation of one assessment and accountability system to meet both state and federal requirements. It will move the focus of education to be on making all students college- and career-ready.

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Commissioner of Education

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